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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,779	07/10/2003	Kenneth A. Scott	075234.0113	2000

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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

EXAMINER	
THOMASSON, MEAGAN J	
ART UNIT	**PAPER NUMBER**
3714	

NOTIFICATION DATE	DELIVERY MODE
07/03/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mike.furr@bakerbotts.com
ptomail1@bakerbotts.com

Office Action Summary	Application No.	Applicant(s)	
	10/616,779	SCOTT ET AL.	
	Examiner	Art Unit	
	Meagan Thomasson	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 April 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-40* is/are pending in the application.

4a) Of the above claim(s) *1-20* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *21-40* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

The examiner acknowledges the cancellation of claims 1-20. Claims 21-40 have been added.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 21-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US 5,830,068).

Regarding claim 21, as shown in Fig. 3, Brenner discloses a method of placing a pari-mutuel wager comprising displaying a plurality of tracks where a plurality of races, i.e. games, are available, receiving a selection of the first one of the plurality of tracks

[196], receiving a selection of a first one of the plurality of races [204], and receiving a first wager associated with a first events that is at the first track wherein the first wager is based at least in part on the first race [212]. After placing a wager, two or more options are displayed to the player [258], wherein a first option is to switch tracks ("Main Menu" option in menu [258] allows player to select a second one of the plurality of tracks and place a second wager associated with a second event that is at the second track, wherein the second wager is based at least in part on the first game) and a second option is to switch games ("More Bets Other Race" option in menu [258] allows a player to select a second one of the plurality of games, i.e. races, that are available at the first track and to place a third wager associated with a third event that is at the first track, wherein the third wager is based at least in part on the second game).

Brenner does not specifically disclose a method of placing a pari-mutuel wager comprising displaying a plurality of games, i.e. races, receiving a selection of a first one of the plurality of games, displaying a plurality of tracks where the first game is available, receiving a selection of a first one of the plurality of tracks, and receiving a first wager associated with an event at the first track based at least in part on the first game. Instead, the method of Brenner for placing pari-mutuel wagers comprises the steps displaying a plurality of tracks, allowing the player to select a track, displaying a plurality of games, i.e. races, allowing the player to select one of the games, and then allowing a player to place a wager on an event at the selected track based at least in part on the first game. However, the specific order of the steps in the disclosed method does not change the overall functionality or outcome of the pari-mutuel wagering

method, as both the invention as claimed and the method disclosed by Brenner result in a player placing a wager on an event at selected track and that is based at least in part on the selected game. Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Brenner to allow a player to choose a race before selecting a track, as the order of these steps has no overall effect on the outcome of the wager.

Regarding claims 22,30 and 38, Brenner discloses the displayed options comprise a third option to play the first game again ("More Bets Same Race" option in menu 258), such that if the third option is selected then a plurality of events that are at the first track are displayed and a fourth wager may be placed that is associated with at least one of the displayed plurality of events, wherein the fourth wager is based at least in part on the first game.

Regarding claims 23,31 and 39, Brenner discloses displaying at least one link to at least one instructional frame (col. 13, lines 39-66), wherein the instructional frame comprises a plurality of rules for playing the first game. Additionally, in reference to Fig. 19, Brenner discloses that "win odds are listed for each runner and predicted exacta payoffs are listed for each of the possible exacta combinations of runners" (col. 13, lines 44-46). This meets the limitation of displaying at least one simulated play of the first game according to the plurality of rules, as the predicted payouts shown in Fig. 19 simulate a payout that would be awarded to a player should the player choose any of the listed runners to finish in first place.

Regarding claims 24,32 and 40, Brenner discloses that the instructional frame comprises a link to a game play frame, wherein the game play frame allows input of a wager associated with the first game. That is, in col. 13, lines 39-41, Brenner discloses that the instructional frame may be selected at step 264 (Fig. 4). As shown in Fig. 4, step 264 comprises a bi-directional link (i.e. the arrow in the drawing) that connects the informational frame of step 264 with element "C". If followed to Fig. 3, element "C" is shown as linked to the game play frame that allows input of a wager associated with the firs game ("Place Wager" option of step 212).

Regarding claims 25 and 33, Brenner discloses that track information, including post times and odds, associated with the selected track is displayed (step 272 of Fig. 19).

Regarding claims 26 and 34, Brenner discloses displaying a video of at least a portion of the first event (col. 17, line 48 – col. 18, line 14).

Regarding claims 27 and 35, Brenner discloses the displayed video is of at least a portion of a pre-recorded event ("Archived racing videos", col. 17, lines 62-64).

Regarding claims 28 and 36, Brenner discloses the first wager is associated with a first user, and further comprises recording data to a reward card associated with the first user, wherein the recorded data is based at least in part on the determined result of the first wager (Fig. 6, "Smart Card" featuring transaction history).

Regarding claims 29 and 37, in addition to the invention as described in the above rejection of claim 21, Brenner discloses in Fig. 2 an apparatus comprising a

memory (RAM/ROM elements 134 and 136), a processor (element 132), and a display screen (monitor element 126).

Response to Arguments

Applicant's arguments, see Remarks, filed April 23, 2007, with respect to the objection to the drawings under 37 C.F.R. 138(a) as well as the objection to claim 18 as containing confusing claim language have been fully considered and are persuasive. Specifically, claim 15 recited limitations drawn to a "virtual assistant" that was not depicted in the drawings. Claim 18 recited "displaying a plurality of options for placing a pari-mutuel wager, and receiving a pari-mutuel wager from entered by the player", which was objected to containing confusing claim language. However, claims 15 and 18 have since been canceled, thus the objection to the drawings as well as to claim 18 has been withdrawn.

Applicant's arguments filed April 23, 2007 have been fully considered but they are not persuasive. Specifically, applicant argues that Brenner does not disclose the limitations of newly added claim 21. However, this is not found to be persuasive as outlined in the above rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714

Meagan Thomasson
June 25, 2007